



Reprinted  
February 6, 2009

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## HOUSE BILL No. 1365

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DIGEST OF HB 1365 (Updated February 5, 2009 3:04 pm - DI 52)

**Citations Affected:** IC 6-1.1; noncode.

**Synopsis:** Tax assessment of land affected by flooding. Upon the filing of a petition in a calendar year by the owner of real property permanently flooded or rendered inaccessible by flooding, requires adjustment of property taxes payable in the calendar year and reassessment of the property for future years in which the flooding continues. Applies the reassessment provision to flooding that occurs after March 1, 2008. Authorizes a refund if property taxes are paid based on the assessment that applied before the reassessment for flooding. Requires the county auditor and the county treasure to publish notice of the availability of a reassessment for flooding. Allows the county auditor to reduce the assessed value used to set property tax rates based on expected reassessments for flooding.

**Effective:** January 1, 2007 (retroactive); January 1, 2008 (retroactive).

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**Van Haaften, Cherry, Battles,  
Tinch**

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January 13, 2009, read first time and referred to Committee on Ways and Means.  
February 3, 2009, reported — Do Pass.  
February 5, 2009, read second time, amended, ordered engrossed.

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HB 1365—LS 6284/DI 52+



First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1365

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A BILL FOR AN ACT to amend the Indiana Code concerning  
taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-1.1-4-11.5 IS ADDED TO THE INDIANA  
2       CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3       [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 11.5. (a)**  
4       **This section applies to one (1) or more parcels of real property in**  
5       **a county:**

6               (1) **that are permanently flooded; or**

7               (2) **to which access over land is permanently prevented by**  
8               **flooding.**

9               (b) **The owner of one (1) or more parcels referred to in**  
10       **subsection (a) may petition the county assessor for a reassessment**  
11       **of the parcel or parcels. Upon receipt of the petition, the county**  
12       **assessor shall:**

13               (1) **cause a survey to be made of the parcel or parcels; and**

14               (2) **if the parcel or parcels meet the description of subsection**

15               **(a), order a reassessment of the parcel or parcels.**

16               (c) **If the flooding referred to in subsection (a) occurs before**  
17       **May 11 of a calendar year (the "current year") and after the**

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1 immediately preceding November 10 and a petition under  
 2 subsection (b) is filed not later than December 31 of the current  
 3 year:

4 (1) the reassessment ordered under subsection (b):

5 (A) takes effect for:

6 (i) the assessment date in the current year; and

7 (ii) the assessment date in the calendar year that  
 8 immediately precedes the current year; and

9 (B) treats the parcel or parcels for those assessment dates  
 10 as:

11 (i) being permanently flooded; or

12 (ii) having overland access permanently prevented by  
 13 flooding;

14 (2) the property taxes first due and payable in the current  
 15 year with respect to the parcel or parcels are determined  
 16 based on the reassessment; and

17 (3) the property taxes first due and payable in the calendar  
 18 year that immediately succeeds the current year with respect  
 19 to the parcel or parcels are determined based on the  
 20 reassessment.

21 (d) If the flooding referred to in subsection (a) occurs after May  
 22 10 of the current year and before November 11 of the current year  
 23 and the petition under subsection (b) is filed not later than  
 24 December 31 of the current year:

25 (1) subsection (c)(1) and (c)(3) apply; and

26 (2) only:

27 (A) the second installment of property taxes under  
 28 IC 6-1.1-22-9(a) first due and payable in the current year  
 29 with respect to the parcel or parcels; or

30 (B) if property taxes are payable by a method other than  
 31 two (2) annual installments, one-half (1/2) of the property  
 32 tax liability for property taxes first due and payable in the  
 33 current year with respect to the parcel or parcels;

34 is determined based on the reassessment.

35 (e) This subsection applies only if:

36 (1) the county assessor orders a reassessment under  
 37 subsection (b); and

38 (2) the property owner pays property taxes in the current  
 39 year with respect to the parcel or parcels based on the  
 40 assessment that applied before the ordered reassessment.

41 The property owner is entitled to a refund of property taxes based  
 42 on the difference in the amount of property taxes paid and the

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amount of property taxes determined based on the ordered reassessment. A property owner is not required to apply for a refund due under this section. The county auditor shall, without an appropriation being required, issue a warrant to the property owner payable from the county general fund for the amount of the refund, if any, due the property owner.

(f) If:

(1) the county assessor orders a reassessment under subsection (b); and

(2) when the reassessment is completed the property owner has not paid property taxes in the current year with respect to the parcel or parcels based on the assessment that applied before the ordered reassessment;

the county treasurer shall issue to the property owner tax statements that reflect property taxes determined based on the reassessment.

(g) The county assessor shall specify in an order under subsection (b) the time within which the reassessment must be completed and the date on which the reassessment takes effect.

(h) A reassessment under this section for an assessment date continues to apply for subsequent assessment dates until the assessor:

(1) determines that circumstances have changed sufficiently to warrant another reassessment of the property; and

(2) reassesses the property based on the determination under subdivision (1).

(i) The county auditor and county treasurer shall publish notice of the availability of a reassessment under this section in accordance with IC 5-3-1.

SECTION 2. IC 6-1.1-17-0.5, AS AMENDED BY P.L.144-2008, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 0.5. (a) For purposes of this section, "assessed value" has the meaning set forth in IC 6-1.1-1-3(a).

(b) The county auditor may exclude and keep separate on the tax duplicate for taxes payable in a calendar year the assessed value of tangible property that meets the following conditions:

(1) The assessed value of the property is at least nine percent (9%) of the assessed value of all tangible property subject to taxation by a taxing unit.

(2) The property is or has been part of a bankruptcy estate that is subject to protection under the federal bankruptcy code.

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(3) The owner of the property has discontinued all business operations on the property.

(4) There is a high probability that the taxpayer will not pay property taxes due on the property in the following year.

(c) This section does not limit, restrict, or reduce in any way the property tax liability on the property.

(d) For each taxing unit located in the county, the county auditor may reduce for a calendar year the taxing unit's assessed value that is certified to the department of local government finance under section 1 of this chapter and used to set tax rates for the taxing unit for taxes first due and payable in the immediately succeeding calendar year. The county auditor may reduce a taxing unit's assessed value under this subsection only to enable the taxing unit to absorb the effects of reduced property tax collections in the immediately succeeding calendar year that are expected to result from any or a combination of the following:

(1) Successful appeals of the assessed value of property located in the taxing unit.

(2) Deductions under IC 6-1.1-12-37 that ~~result from the granting of applications for the homestead credit for the calendar year under IC 6-1.1-20.9-3 or IC 6-1.1-20.9-3.5~~ **are granted** after the county auditor certifies assessed value as described in this section.

(3) Deductions that result from the granting of applications for deductions for the calendar year under IC 6-1.1-12-44 after the county auditor certifies assessed value as described in this section.

**(4) Reassessments of real property under IC 6-1.1-4-11.5.**

Not later than December 31 of each year, the county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and to the department of local government finance. The certified statement must list any adjustments to the amount of the reduction under this subsection and the information submitted under section 1 of this chapter that are necessary. ~~as the result of processing homestead credit applications and deduction applications that are filed after the county auditor certifies assessed value as described in this section.~~ The county auditor shall keep separately on the tax duplicate the amount of any reductions made under this subsection. The maximum amount of the reduction authorized under this subsection is determined under subsection (e).

(e) The amount of the reduction in a taxing unit's assessed value for

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a calendar year under subsection (d) may not exceed two percent (2%) of the assessed value of tangible property subject to assessment in the taxing unit in that calendar year.

(f) The amount of a reduction under subsection (d) may not be offered in a proceeding before the:

- (1) county property tax assessment board of appeals;
- (2) Indiana board; or
- (3) Indiana tax court;

as evidence that a particular parcel has been improperly assessed.

**SECTION 3. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]**

**(a) This SECTION applies to one (1) or more parcels of real property in a county:**

**(1) that after March 1, 2008, and before November 11, 2008, are permanently flooded; or**

**(2) to which access over land is permanently prevented after March 1, 2008, and before November 11, 2008, by flooding.**

**(b) Not later than July 1, 2009, the owner of one (1) or more parcels referred to in subsection (a) may petition the county assessor for a reassessment of the parcel or parcels. Upon receipt of the petition, the county assessor shall:**

- (1) cause a survey to be made of the parcel or parcels; and**
- (2) if the parcel or parcels meet the description of subsection (a), order a reassessment of the parcel or parcels that:**

**(A) subject to subsection (d), takes effect for the assessment dates in 2007 and 2008; and**

**(B) treats the parcel or parcels for those assessment dates as:**

- (i) being permanently flooded; or**
- (ii) having overland access permanently prevented by flooding.**

**(c) The county assessor shall specify in an order under subsection (b) the time within which the reassessment must be completed and the assessment dates for which the reassessment takes effect.**

**(d) If the county assessor orders a reassessment under subsection (b):**

**(1) the property owner is entitled to a refund of property taxes in the amount of one-half (1/2) of the remainder of:**

**(A) the amount paid by the property owner with respect to the parcel or parcels for 2007 property taxes first due and payable in 2008; minus**

**(B) the 2007 property taxes first due and payable in 2008**

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1           with respect to the parcel or parcels determined based on  
2           the reassessment; and  
3           (2) the 2008 property taxes first due and payable in 2009 with  
4           respect to the parcel or parcels are determined based on the  
5           reassessment.  
6           (e) A property owner is not required to apply for a refund due  
7           under this SECTION. The county auditor shall, without an  
8           appropriation being required, issue a warrant to the property  
9           owner payable from the county general fund for the amount of the  
10          refund, if any, due the property owner. No interest is payable on  
11          the refund.  
12          (f) The county auditor and county treasurer shall publish notice  
13          of the availability of a reassessment under this SECTION in  
14          accordance with IC 5-3-1.  
15          (g) This SECTION expires January 1, 2010.  
16          SECTION 4. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]  
17          IC 6-1.1-4-11.5, as added by this act, applies only to property taxes  
18          first due and payable after 2008.  
19          SECTION 5. An emergency is declared for this act.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1365, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

CRAWFORD, Chair

Committee Vote: yeas 21, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1365 be amended to read as follows:

Page 3, line 27, delete "publicize" and insert "**publish notice of**".

Page 3, line 28, delete "through" and insert "**in accordance with IC 5-3-1.**"

SECTION 2. IC 6-1.1-17-0.5, AS AMENDED BY P.L.144-2008, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1 2008 (RETROACTIVE)]: Sec. 0.5. (a) For purposes of this section, "assessed value" has the meaning set forth in IC 6-1.1-1-3(a).

(b) The county auditor may exclude and keep separate on the tax duplicate for taxes payable in a calendar year the assessed value of tangible property that meets the following conditions:

- (1) The assessed value of the property is at least nine percent (9%) of the assessed value of all tangible property subject to taxation by a taxing unit.
- (2) The property is or has been part of a bankruptcy estate that is subject to protection under the federal bankruptcy code.
- (3) The owner of the property has discontinued all business operations on the property.
- (4) There is a high probability that the taxpayer will not pay property taxes due on the property in the following year.

(c) This section does not limit, restrict, or reduce in any way the property tax liability on the property.

(d) For each taxing unit located in the county, the county auditor may reduce for a calendar year the taxing unit's assessed value that is certified to the department of local government finance under section 1 of this chapter and used to set tax rates for the taxing unit for taxes first due and payable in the immediately succeeding calendar year. The

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county auditor may reduce a taxing unit's assessed value under this subsection only to enable the taxing unit to absorb the effects of reduced property tax collections in the immediately succeeding calendar year that are expected to result from any or a combination of the following:

- (1) Successful appeals of the assessed value of property located in the taxing unit.
- (2) Deductions under IC 6-1.1-12-37 that ~~result from the granting of applications for the homestead credit for the calendar year under IC 6-1.1-20.9-3 or IC 6-1.1-20.9-3.5~~ **are granted** after the county auditor certifies assessed value as described in this section.
- (3) Deductions that result from the granting of applications for deductions for the calendar year under IC 6-1.1-12-44 after the county auditor certifies assessed value as described in this section.

**(4) Reassessments of real property under IC 6-1.1-4-11.5.**

Not later than December 31 of each year, the county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and to the department of local government finance. The certified statement must list any adjustments to the amount of the reduction under this subsection and the information submitted under section 1 of this chapter that are necessary. ~~as the result of processing homestead credit applications and deduction applications that are filed after the county auditor certifies assessed value as described in this section.~~ The county auditor shall keep separately on the tax duplicate the amount of any reductions made under this subsection. The maximum amount of the reduction authorized under this subsection is determined under subsection (e).

(e) The amount of the reduction in a taxing unit's assessed value for a calendar year under subsection (d) may not exceed two percent (2%) of the assessed value of tangible property subject to assessment in the taxing unit in that calendar year.

(f) The amount of a reduction under subsection (d) may not be offered in a proceeding before the:

- (1) county property tax assessment board of appeals;
- (2) Indiana board; or
- (3) Indiana tax court;

as evidence that a particular parcel has been improperly assessed."

Page 3, delete lines 29 through 30.

Page 4, line 33, delete "publicize" and insert "**publish notice of**".

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Page 4, line 34, delete "through" and insert "**in accordance with IC 5-3-1.**".

Page 4, delete lines 35 through 36.

Renumber all SECTIONS consecutively.

(Reference is to HB 1365 as printed February 3, 2009.)

VAN HAAFTEN

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